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Remarks

Reconsideration of the above-captioned application is respectfully requested. After this amendment, the only remaining independent claims are Claims 1 and 10, with Claim 10 standing rejected under 35 U.S.C. §102 as being anticipated by Thomsen, USPP 2002/00067428 and Claim 1 standing rejected under 35 U.S.C. §103 as being unpatentable over Isoe et al., USPN 5,671,019 in view of Brodsky, USPN 5,809,471. Also, despite the above-mentioned anticipation rejection, Claim 10 has been cumulatively rejected under 35 U.S.C. §103 as being unpatentable over Brodsky in view of Allport, USPN 6,097,441.

Additionally, the following rejections of dependent claims have been lodged. Claims 14 and 16 have been rejected as being anticipated by Thomsen. Claim 11 has been rejected as being unpatentable over Thomsen in view of Patterson, USPN 5,923,379, and Claim 12 has been rejected as being unpatentable over Thomsen in view of Allport. Claim 13 has been rejected as being unpatentable over Thomsen in view of an online dictionary and cumulatively as being unpatentable over Brodsky in view of Allport and Chang, USPN 5,543,851, Claim 17 has been rejected as being unpatentable over Thomsen in view of O'Brien et al., USPN 6,055,569, and Claims 2, 5, 6, and 8 have been rejected as being unpatentable over Isoe et al. in view of Brodsky. Claim 3 has been rejected as being unpatentable over Isoe et al. in view of Brodsky and Sampsell, USPN 6,496,122, and Claim 4 has been rejected as being unpatentable over Isoe et al. in view of Brodsky and Chang. Claims 7 and 9 have been rejected as being unpatentable over Isoe et al. in view of Brodsky and on online dictionary, and Claims 11, 12, 14, 15, and 17 have been cumulatively rejected as being unpatentable over Brodsky in view of Allport. Claim 16 has been rejected as being unpatentable over Brodsky in view of Allport and the online dictionary.

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To overcome the rejections, Claim 1 has been amended to recite receiving from a head end transmitter along with the program, closed captioning text, with primary words within the closed captioning text as received from the head end transmitter appearing differently within the closed captioning text than remaining secondary words when the closed captioning text is presented on a display of a TV prior to any user selection of words in the closed captioning text. Support for this amendment can be found, e.g., on page 6, first five lines (disclosing that closed captioning programming is provided to the TV 11, with some words in the CC appearing anomalously, prior to the step at block 40 where the user may manipulate the remote control device 12 to select a word.) In contrast, Claim 10 now recites that a word appearing in the closed captioning flashes as disclosed on page 5, line 17. Claims 1-17 remain pending.

#### Rejections Under 35 U.S.C. §102

Claims 10, 14, and 16 have been rejected under 35 U.S.C. §102 as being anticipated by Thomsen. None of the references have been alleged to teach flashing words in closed captioning, nor to the best of Applicant's knowledge do any references in fact teach or suggest this feature. Accordingly, the rejections of Claim 10 and its respective dependent claims have been overcome.

#### Rejections Under 35 U.S.C. §103

As summarized above, a plethora of obviousness rejections have been lodged, but *apropos* Claim 1, none of the references appear to teach receiving closed captioning from the head end words appear differently in the closed caption text as received from the head end. Isoe et al. does not appear to teach or suggest

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differently-appearing closed caption words at all; certainly, the examiner has not alleged otherwise. In Brodsky, words in the closed caption *never* appear differently from other words as explained further below. In the lately-cited Thomsen publication, words, to the extent that they appear differently from other closed captioning words, do so only *after and in response to* user selection of the word as taught in, e.g., paragraph 46. Nothing in Thomsen teaches or suggests allowing the head end provider to direct attention to provider-selected primary words that, e.g., might happen to link to ancillary content associated with the provider. Accordingly, the rejections of Claim 1 and its dependent claims have been overcome.

With more specificity regarding Brodsky, none of the words within the closed captioning text of Brodsky appear differently from any others, much less are differently appearing words received from the head end transmitter. Instead, in Brodsky, words are added to a dynamically evolving dictionary, and a user later can speak words that are matched to words in the dictionary for obtaining additional content. While the words that are added to the dictionary are contained in televised content, they are automatically added to the dictionary by the software *and cannot be selected from the closed captioning text itself*. According to Brodsky, a user subsequently selects words in the dictionary by speaking the words or by selecting words from a menu, but not by selecting words *from* the closed captioning itself. There is simply no suggestion in any reference to allow a user to select a word from closed captioning text to access additional content that is related to the broadcast. There is thus no reason in Brodsky to make words within closed captioning text itself appear differently from other words, as set forth in, e.g., Claim 1, because the words in Brodsky are not selected by a human for addition to the dictionary but by a machine instead.

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The examiner continues to allege that words appear differently in Brodsky "by virtue of words [in Brodsky] appearing in a separate region" of the screen. The problem with this allegation is plain. While claims must be as broadly construed during prosecution as a reasonable artisan would construe them, MPEP §§2111 and 2111.01, they cannot be construed in a way that obliterates claim terms. Even under the broadest reasonable interpretation, a word appearing in a list that is separate from closed captioning as taught in Brodsky cannot be said to appear differently within the closed captioning text itself; otherwise, one is required to read the word "within" completely out of Claim 1.

Turning to the cumulative obviousness rejection of Claim 10, as mentioned above none of the references appears to teach or suggest flashing words in closed captioning, much less in response to the particular combination of features recited in Claim 10. Accordingly, the obviousness rejections of Claim 10 and its dependent claims have been overcome.

Although it appears that all claims are now patentable, for completeness Applicant offers the following additional comments regarding certain dependent claims. In each of the manifold separate grounds of rejection, none of the proffered suggestions to modify the asserted primary references using the asserted secondary references are from the prior art, as is otherwise required by MPEP §2143.01. Instead, all of the proffered suggestions to combine appear to be hindsight, in essence based on nothing more than an observation that because the secondary references exist, then it would have been obvious to combine them with the primary references. Of course, a properly made *prima facie* case of obviousness requires more. Furthermore, Applicant does not acquiesce that the references, even if combined as proposed, would arrive at the claims being rejected.

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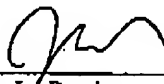
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With respect to the rejections based on the cited online document, Applicant is not claiming the use of an online encyclopedia in a vacuum, but rather in a new and unsuggested way. Accordingly, simply citing an online encyclopedia essentially for the proposition that because it exists, it would have been obvious to use it in the novel and unsuggested way recited in claims rejected in this section, runs afoul of the requirement that not only must every element be found in the prior art to reject a claim, but also the requisite prior art motivation to modify references to arrive at a claim must be identified, or the *prima facie* case falls.

The Examiner is cordially invited to telephone the undersigned at (619) 338-8075 for any reason which would advance the instant application to allowance.

Respectfully submitted,



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